

MONTANA LEGISLATIVE HISTORY

Chapter 251 1991

Bill H B 479 S _____

Original bill & history ✓ c

H. Committee on Bus² Econ Dev

S. Committee on Bus¹ Ind

Hearing Date(s) 2/07 _____ c

Hearing Date(s) 3/08 _____ c

2/12 _____ c

3/08 _____ c

_____ c

_____ c

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_____ c

Date Out _____ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 480

2/07 FISCAL NOTE PRINTED
DIED IN COMMITTEE

HB 479 INTRODUCED BY HAYNE, ET AL.

ALLOW CERTAIN NONPROFIT CORPORATIONS TO APPLY UNDER
IN-STATE INVESTMENT ACT

1/30	INTRODUCED		
1/30	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
1/31	FIRST READING		
1/31	FISCAL NOTE REQUESTED		
2/04	FISCAL NOTE RECEIVED		
2/05	FISCAL NOTE PRINTED		
2/07	HEARING		
2/07	TABLED IN COMMITTEE		
2/12	COMMITTEE REPORT—BILL PASSED AS AMENDED	89	8
2/15	2ND READING PASSED	91	6
2/18	3RD READING PASSED		
	TRANSMITTED TO SENATE		
2/19	FIRST READING		
2/19	REFERRED TO BUSINESS & INDUSTRY		
3/08	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED AS AMENDED	49	0
3/14	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	83	3
3/18	3RD READING AMENDMENTS CONCURRED	94	4
3/22	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 251		
	EFFECTIVE DATE: 3/29/91		

HB 480 INTRODUCED BY LEE

INCLUDE TOWN EMPLOYEES AMONG THOSE PUBLIC EMPLOYEES
ALLOWED MILITARY LEAVE

1/30	INTRODUCED		
1/30	REFERRED TO STATE ADMINISTRATION		
1/31	FIRST READING		
1/31	FISCAL NOTE REQUESTED		
2/05	HEARING		
2/05	COMMITTEE REPORT—BILL PASSED		
2/05	PLACED ON CONSENT CALENDAR		
2/05	FISCAL NOTE RECEIVED		
2/06	FISCAL NOTE PRINTED		
2/07	3RD READING PASSED	93	1
	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO LOCAL GOVERNMENT		
3/05	HEARING		
3/06	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	49	0
3/09	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/14	SIGNED BY SPEAKER		
3/14	SIGNED BY PRESIDENT		
3/14	TRANSMITTED TO GOVERNOR		
3/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 80		
	EFFECTIVE DATE: 10/01/91		

HOUSE BILL NO. 479

INTRODUCED BY HAYNE, GAGE, R. JOHNSON

IN THE HOUSE

JANUARY 30, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
JANUARY 31, 1991	FIRST READING.
FEBRUARY 7, 1991	ON MOTION, REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 12, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1991	PRINTING REPORT.
FEBRUARY 15, 1991	SECOND READING, DO PASS.
FEBRUARY 16, 1991	ENGROSSING REPORT.
FEBRUARY 18, 1991	THIRD READING, PASSED. AYES, 91; NOES, 6.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 19, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 8, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 13, 1991	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 14, 1991	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1991	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS

MARCH 18, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *479*
2 INTRODUCED BY *Hayne Rep. Delmon*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE BOARD OF
5 INVESTMENTS TO ALLOW CERTAIN NONPROFIT CORPORATIONS TO
6 QUALIFY FOR IN-STATE INVESTMENTS OF STATE FUNDS; AND
7 AMENDING SECTION 17-6-308, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 17-6-308, MCA, is amended to read:

11 "17-6-308. Authorized investments. (1) Except as
12 provided in subsection (4), the Montana in-state investment
13 fund must be invested as authorized by rules adopted by the
14 board. For purposes of this section, "investment" includes
15 the guaranty of loans or bonds in consideration for a fee,
16 in lieu of the actual acquisition of such loans or bonds.

17 (2) The board may use the in-state investment fund to
18 guarantee loans or bonds issued under the provisions of
19 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16,
20 or Title 90, chapter 7. Each guaranty must be given in
21 consideration of a fee. The fees must be paid to the board.
22 The guaranty must provide directly or by separate agreement
23 that the board is fully subrogated to the rights of the
24 obligee under the loan or bond. The board shall by rule
25 establish the maximum ratio between guaranty funds available

1 and loans or bonds to be guaranteed. The board may covenant
2 in bond issues to maintain such ratio. Unless bonds issued
3 to finance a project are secured by a common capital reserve
4 account and a common guaranty fund, the maximum amount of
5 the guaranty authorized by this section may not exceed
6 \$3,000,000 with respect to the bonds or loans to finance the
7 project.

8 (3) The board may make loans from the in-state
9 investment fund to the capital reserve account created
10 pursuant to 17-5-1515 and the guaranty fund created pursuant
11 to 17-5-1520 to establish balances or restore deficiencies
12 therein. The board may agree in connection with the issuance
13 of bonds or notes secured by such account or fund to make
14 such loans. Loans must be on such terms and conditions as
15 the board determines and must be repaid from revenues of the
16 board realized from the exercise of its powers under
17 17-5-1501 through 17-5-1529, subject to the prior pledge of
18 the revenues to the bonds and notes.

19 (4) The board shall allow the Montana board of science
20 and technology development provided for in 2-15-1818 to
21 administer \$7.5 million of the in-state investment fund for
22 seed capital project loans pursuant only to the provisions
23 of Title 90, chapter 3. This authority does not extend
24 beyond June 30, 1994. Until such time as the Montana board
25 of science and technology development makes a loan pursuant

1 to those provisions, the funds under its administration must
2 be invested by the board of investments pursuant to the
3 provisions of 17-6-201.

4 (5) The board shall adopt rules to allow a nonprofit
5 corporation to apply for economic assistance if the
6 nonprofit corporation meets the following criteria:

7 (a) the investment would result in the nonprofit
8 corporation receiving funds for the expansion of its
9 existing operations;

10 (b) the projected expansion would create at least 15
11 new jobs in the nonprofit corporation;

12 (c) the nonprofit corporation has a ratio of no more
13 than 50% of debt to assets; and

14 (d) the nonprofit corporation has assets with a value,
15 minus any existing encumbrances, equal to at least three
16 times the amount of the investment."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0479, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to require the Board of Investments to allow certain nonprofit corporations to qualify for in-state investments of state funds; and amending section 17-6-308, MCA.

ASSUMPTIONS:

1. The interest rate on loans to nonprofit corporations will, on average, equal other commercial loans.
2. The loan rate is approximately equal to the short term investment pool (STIP).
3. The proposed loan funds are derived from the STIP balance in the permanent coal trust fund.
4. The proposed legislation is contingent upon the passage of SB26 which will increase lending authority from the permanent coal trust fund.
5. The Board of Investments does not need additional staff or spending authority to process an increase in loans caused by the proposed legislation.

FISCAL IMPACT:

None

TECHNICAL NOTES:

It should be specified whether governmental entities are eligible for loans.



ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



HARRIET HAYNE, PRIMARY SPONSOR DATE

Fiscal Note for HB0479, as introduced.

HB 479

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on February 7, 1991, at 8:00 A.M.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: HB 479 and HB 442 were to be heard and Executive Action taken on HB 442, HB 479, HB 76 and HB 405.

HEARING ON HOUSE BILL 479

Presentation and Opening Statement by Sponsor:

REP. HARRIET HAYNE, HD 10, most of Pondera County and a portion of Cut Bank and Glacier Counties explained HB 479 would require the Board of Investments to allow certain non-profit corporations to qualify for in-state investments of state funds; and amends Section 17-6-308, MCA. The Board of Investments (BOI) has no doubt performed a thorough research on each loan they are

required to make. The BOI is designed to assist businesses by making available to them long-term fixed rate financing at competitive rates for a variety of reasons. Retirement residence business in Montana and nationally at this time is a very necessary business. The retirement facilities she is familiar with are well run businesses and now have 100% occupancy. In addition, there is also a waiting list of 102. They must expand to meet the ever-increasing number of elderly in Montana. Today the senior citizens stay healthy and comparatively physically fit much longer than in the past. Modern medicine and science has made this possible. However, many of the older citizens need a place that provides them a few of the services that are needed, especially if they are alone.

She has some amendments that remove the last part of this bill, on Page 3. The criteria being removed would not apply to non-profit entities. EXHIBIT 1 BOI rules should recognize that different directions are needed for nonprofit corporations than for for-profit corporations. There are several witnesses present who wish to testify.

Proponents' Testimony:

Robert E. MacGilvra, is a volunteer member of the Board of Directors of the Horizon Lodge, Inc., Conrad. He is in support of HB 479. Horizon Lodge was built 14 years ago as a retirement business with 84 apartments. The project was financed by a commercial bank loan guaranteed by HUD. This operation was incorporated as a nonprofit Montana corporation. The operation employs 35 people with an annual operating budget of approximately \$620,000 per year. The Lodge presently serves 124 residents and has an audited waiting list of 102 hopeful people. Horizon Lodge has always operated as a financially feasible operation. The debt and operating expenses have always been serviced in a timely manner.

Three years ago Horizon Lodge instituted a program to provide assistant living, sometimes called personal care, for a limited number of its residents. They believe this service has strengthened their waiting list. It certainly serves their community. This has been confirmed both by audit and preliminary feasibility studies to determine the wisdom of enlarging their facilities.

They have undertaken preliminary architectural work and explored methods of financing an expansion on the order of 50 additional apartments. One of their finance options was a loan from the BOI office of development and finance using Montana Coal Severance Tax funds which is why he is here today. Proceeds of the Montana Coal Severance Tax are administered and invested by the Montana BOI. Presently this Coal Tax fund amounts to approximately \$450 million of which approximately \$80 million is uncommitted and immediately available to qualified borrowers. Only \$45 million or 10% of that money is invested in Montana due to a lack of

qualified borrowers in our State. Most of this money is being invested outside of Montana. The first paragraph of the purpose of the Coal Tax Fund was read by REP. HAYNE. That paragraph mentions the State of Montana specifically twice and the State's economy four times in one paragraph that the Coal Tax money is to be used to augment and assist in employment opportunities and the economy of Montana. This paragraph closely describes the purpose of the BOI and is a perfect match with the Horizon Lodge mission.

Paragraph 2 enumerates the financial institutions in Montana which administer and make these loans. Paragraph 3 provides for several types of loans to match particular business needs. The problem Horizon Lodge faces is in the five borrowers' eligibility requirements. There is no problem with five rules 1, 2, 4, 5. The problem is in group 3. Rule 3 reads as follows: "Eligibility - loans to any government entity or nonprofit corporations will not be funded under this program". Horizon Lodge is a nonprofit corporation. There are nonprofit corporations and then there are non-profit nonprofit corporations. By law nonprofit corporations are forbidden to establish any financial reserves on their balance sheet. They cannot establish a retained earnings account for future maintenance and obsolescence. They are a charitable nonprofit corporation. Horizon Lodge may be considered a poor credit risk as far as commercial lending institutions are concerned. Even after 14 years of successful operation and a facility that is appraised at over \$4 million with a 25% debt to assets status, they have been unable to interest any commercial lending institution to lend them money to expand simply because they do not have one cent in retained earnings.

The proposed bill as read answers their needs. His point is, the word 'nonprofit' is much too broad a term. There are nonprofit corporations that should be excluded such as churches, fraternal organizations, service clubs, etc. as examples. Others who fulfill the goals and purposes the Montana Legislature has put into law to be carried out by the BOI should not be excluded, including Horizon Lodge. Passage of this bill in the Legislature would allow investment of Coal Tax funds in naturally viable nonprofit corporations which would enhance Montana, create jobs, and make Montana a better place to live and retire, and would boost our Montana economy and otherwise fulfill the very purpose of the BOI.

Thus Montana now has approximately \$450 million of Coal Tax money which is constrained by the vagary of law. It is not being invested in Montana. Presently primary Montana businesses are the financial institutions who process and administer these loans. How many jobs does this create? What additions to Montana's economy are being made? There is \$80 million presently uncommitted for short term loan instruments rather than long term, therefore money is available. Horizon Lodge would like to be permitted to apply for a loan which will add approximately 35 new jobs with an annual payroll of approximately \$700,000 a year. Let the BOI make the evaluations and decision on their

application, and on other deserving naturally viable nonprofit organizations in Montana like Horizon Lodge.

Gene D. Todd and Associates, Administrator of Eagles Manor in Great Falls for 25 years, said the company has built 14 projects in the State of Montana. Several of them were retirement projects and some were for low income housing. All are subsidized housing for both the elderly and families. He was the consultant and put together the program for Horizon Lodge 14 years ago. They have operated and managed most of the projects they built for the past 25 years. They have not been able to finance the projects in the State of Montana. They are in the process of doing a feasibility study on a pre-rental program for the Lost Tree organization. In securing tentative frontend funding they had to go to California.

The type of project they anticipate building in Great Falls is for 20% low income people and 80% for salaried medium income people. Most of the projects in Montana are in the field of elderly housing and deal only with the low income category. That means there are a lot of people in the State who don't qualify for low income housing, and consequently a great share of them are going out of state for the type of services they need after they reach the age of 65 on up. They have a long waiting list for occupancy of their Great Falls project. Their vacancy rate is 101% but over the period of 25 years they have had periods when they may have one or two vacancies for a short time. They do have a long waiting list, both for singles or couples. Consequently there are some qualified and needed areas.

The problem with this particular bill is the restriction of \$3 million. You can't build a project at this time for \$3 million because in his experience if they try to build projects that are below a 100 units, they can't put in full food services, can't have exercise programs, all the other necessary things. They are in the process of negotiating a project now costing in the area of \$5.5 million. If this bill is passed to make nonprofits eligible for in-state investment fund loans, then the financing for these new projects could take place out of this program. This particular project he is talking about would benefit about 30 new employees because it also will carry with it a personal care program that allows people to be in projects much longer than what they are now. Using state money is a good idea.

They are paying big fees to out-of-state bonding companies to do their program. They have to meet their strict requirements. One good point about it is they have an interest rate of about 7.5% on this one project. With the changes in the interest rates now throughout the country 7.5% might be high six months from now. Every time they drop a half a percent means a \$1 million drop in their costs over a period of time. They think this program should be checked out carefully as to the amounts that nonprofits have to deal with in building that type of project.

Stephen C. Stanley, Conrad, Horizon Lodge and Vice President of

the American Association Home for the Aging, Montana, a group of 26 nonprofit nursing homes and retirement centers in the State of Montana, supports HB 479. Fifteen of them are retirement centers. All of them are looking at the figures coming at them on the elderly growth in population, and all see the expansion going to have to take place. They want to keep the retired people in the State of Montana. If we can offer the same quality of living in Montana we are going to keep them, their money and their families in the State. The nonprofit groups as already pointed out do have trouble finding financing. They don't have much to show in their reserves but do want to serve the needs of Montana for the elderly, and feel this bill would certainly help those in the nonprofit sector to help better Montana.

There were other proponents - please see the Visitor's Register.

Informational Testimony:

Dave Lewis, Executive Director of the State Board of Investments, wanted to make sure they have their positions heard before the Committee before this bill is considered. They administer the almost 200 funds in their portfolio for the benefit of the beneficiaries of that particular fund. For instance, there are retirement funds which are run for the clear benefit of the retirees. In the case of the Coal Trust the Legislature through legislation and the people by the Constitution have laid out a couple of different goals that were addressed under the Coal Trust fund. One of them is economic development. They have totally gone along with that, however the Legislature writes the law, and that is the way they run it.

They are not here as proponents so much as to explain what the intent of this legislation might be and how it might be coordinated with other legislation that is going through right now, so that if the Legislature chooses to pass this bill they will understand the total impact.

A little history - back in 1983 when I-95 was approved by the people the Legislature through legislation implemented the In-state Investment Act. There was a lot of discussion in the committees who were considering the legislation about the demand for the funds. There was a feeling they were going to have to have an effective allocation process so they knew what the priorities were as far as which things the loans should go for first, because there was a general feeling there was a line around the Capitol twice that would provide a perfect demand for these funds.

The Legislature also chose, wisely so, to not allow the Board to make direct loans. They only buy loans that are presented to them by approved lenders so the deal to loan was controlled by the banks in the State. The Legislature also in the law says the bank that sells them a loan has to be willing to take 20% of that loan. They sell the BOI 80%. Those two things, the fact that it

has to be a bankable loan, and the originating lender has to take 20% of that loan have in fact restricted the flow of loans offered to the Board. They have done about \$80 million worth of loans since 1983. They have about \$45 million in outstanding principal right now. They have had repayments over that period of time that accounts for the difference between loans made and what is on the books at the moment.

The Legislature is concerned about whether or not they should meet all the loan demands. The Board adopted the original rules. The restriction against loans to nonprofits was included because there was a feeling at the original Board meetings about the affect of possible double-dipping. It happens when a corporation also applies for a low interest loan - there was a lot of concern about that; and a lot of concern about whether that should be a lower priority than the loans to for-profit businesses in the State. History has indicated they weren't overwhelmed with demand, they have about \$45 million in loans out right now.

There is another bill going through the Legislature right now, SB 26, that rewrites the program and effectively allows the Board to use 25% of the total trust fund for in-state investments which would increase the amount available to about (on a \$450 million trust) \$112.5 million. That would give them approximately \$80 million worth of unused loan capacity at the present time. They don't take the position as to whether or not nonprofits should be eligible for a loan. That is properly a public policy decision the Legislature should make, so they are not taking a position on this issue.

SB 26 which was heard in House Taxation yesterday takes out a large portion of the statute that is shown in HB 479. Under Section 1 (2) and (3) it talks about a guarantee program. That is where the \$3 million issue comes up that was referred to in previous testimony. That guarantee program was found unconstitutional by the Montana Supreme Court about three years ago. Those portions of the statute are repealed in SB 26. There is a coordinating clause in SB 26 that would deal with that issue if HB 479 were to pass. That is not really a problem. The only operating Sections of the bill are Section 4 which reflects what is going on now with the Montana Science and Tech program, and Section 5 which is amended basically to say the BOI can make loans to nonprofits.

The Board would make its own rules to establish the criteria for those particular loans as they have with all the other loans. They have extensive administrative rules that have been adopted through the Administrative Procedure Act dealing with all the qualifications for those loans. He wanted to make real clear that if this bill were passed, they could make loans to nonprofits, but they would be subject to the very same process of procedure that everyone else is subject to. First they have to find a bank that is willing to originate the loan and hold 20% of the deal. Then the bank will sell 80% to the BOI and that has to meet the

BOI's basic criteria as far as collateral, repayment ability, etc. He thinks Horizon Lodge is being used as an example of types of facilities that could be financed through the program, but they want to make it clear to the Committee and Horizon Lodge they are going to have to meet the same requirements for a loan the same as anyone else if this legislation were to be approved. He is not taking a position on behalf of the BOI as to whether or not nonprofits should be eligible.

Opponents' Testimony: None

Questions From Committee Members:

REP. LARSON asked how nonprofit corporations could be made eligible for tax fund loans. Mr. Lewis said the banks are going to look at the same requirements as the BOI looks at, the collateral, first mortgage, cash flow. There are opportunities because some of the retirement facilities have a very good cash flow and are attractive investments. They have made loans for for-profit nursing homes, so they have some exposure to that particular industry. Retirement homes are getting very popular.

REP. BENEDICT asked in that 80/20 ratio does the bank only come in for 20% of the collateral in the first position, and you have 80% in collateral? Mr. Lewis answered they share on the 80/20 ratio all collateral and all recoveries. They are not second.

REP. PAVLOVICH asked what the impact would be if SB 26 passed. Mr. Lewis said it won't really affect HB 479 because the operative section would be the new language which said to make loans to nonprofit corporations. SB 26 takes out some of this old language. The meat of this bill is the New Section.

REP. ELLIS asked if SB 26 will take out the part about the \$3 million limitation. Mr. Lewis answered that it does.

REP. ELLIS asked if BOI is currently lending more than \$3 million for for-profit institutions? Mr. Lewis said one of the sections in SB 26 establishes a maximum loan of one percent of the coal trust, so if the whole trust is \$450 million, the maximum loan would be \$4.5 million.

REP. BARNETT asked if he would like to respond to REP. LARSON's question on the debt to asset ratio. Gene Todd said the debt to asset ratio they deal with now in their bonding program is ten percent, and that ten percent can be in the form of land, or whatever. It doesn't have to be in cash. The bond costs probably one-third of the bank cost. It costs too much to go through a bank and meet their criteria of 20%. They can't build for nonprofit organizations and meet peoples' requirements. In most cases the bank will add 3 or 4 points to the program before you can get financed, so it absolutely eliminates Montanans from being able to deal in this kind of a program. They have built lots of properties in many different states, both for-profit and

nonprofit.

The most successful projects are the nonprofits because they are run better, meet the requirements of the people much better than the for-profit units do. They don't have a criteria that you have to meet to pay off more than the mortgage. Consequently since they are not paying stockholders, they run their programs much more efficiently and they do make money in their nonprofit operations. They have extensive reserves that run between \$300,000 and \$500,000 in Montana. But those reserves are kept there to meet any type of requirement there might be down the line. Reserves could be used to do a large replacement program. They don't have to go back to the government to borrow more money.

REP. BACHINI said you pointed out when going through this bill there isn't much meat in this bill, is there? Would SB 26 take care of it or do we need to require the BOI to allow nonprofits to be eligible? Mr. Lewis said that is true, the New Section is needed.

REP. STELLA JEAN HANSEN said in the first testimony he referred to the fact that not much of that 25% is really lent out, is that right? Mr. Lewis said at the present time the in-state investment fund amounts to about \$60 million, they have \$45 million lent out. What they want to do and in SB 26 it does say they can use up to 25% of the entire trust for in-state loans which would bring that up to \$112 million; so we have the difference between that \$45 million and \$112 million that can be used.

REP. STELLA JEAN HANSEN asked do you feel that the numbers of loans that you have been able to make is accurate, or do you feel the trust hasn't been used that much? Mr. Lewis answered over the period of years they have loaned out-of-state \$1 million. It is not as much as everyone thought would be done at the beginning and part of it has to do with them watching that line. The Legislature said that under the 'prudent expert' rule, the Board shall make an effort to invest in the State for purposes of improving the Montana economy, so they have to look at it as having two masters. There are two purposes established for the Trust, one is the long-term rate of return and income producing ability; and one is economic development. It depends on how many qualified demands come along because they have a requirement to earn the best return and to make prudent loans. On the other side, they have to try to be aggressive in getting the money out.

REP. S.J. HANSEN asked if he felt that lack of interest in the banks in making these loans is part of the reason? Mr. Lewis said a lot of the banks in the State are not loaned up. They run statistics and the loans to deposit ratio in Montana is in the 50s and in the Midwest its up in the high 70s. They don't have a need for a market for secondary loans. If they make a loan they just keep it on their books, they don't need a secondary market. The BOI basically services a good secondary market for smaller

banks who may have loans offered to them that are marginal and they can't carry so they use the BOI for that purpose. It is hard to say that it is a problem with the banks. It is always a place to get a loan if you have twice as much collateral as is needed and a good cash flow. It is the ones that are a little riskier that are tough to finance.

REP. S.J.HANSEN asked if it is thought the nonprofits have had problems getting that kind of a loan. Mr. Lewis said it would depend on the particular nonprofit and the strength of their financial statements. It is like everything else, some are going to make it and some aren't.

REP. BENEDICT asked if this will help the nonprofits if they still have to go through the banks and pay higher interest rates. Mr. Todd answered No, it will not because there aren't enough nonprofits that have sufficient reserves to be able to participate in the program. Besides that their loans have been through the Department of Housing and Urban Development (HUD) and they can't mortgage any of that program. HUD has the first mortgage, and a second mortgage is not allowed. If they want to expand or build something new, the only program that is available at this time is through the IDR tax exempt bonds for nonprofits. For-profits can use partnership programs, general partners, and limited partnerships, and then are able to come up with enough cash to justify getting loans through banking appropriations to do a project. Nonprofits are limited.

REP. BENEDICT said Mr. Todd just said that this bill will not help the nonprofits the way it is written because of the regulations you have requiring them to go through a bank. What flexibility is there in your rules or regulations to allow them not to have to go through a bank to be able to borrow directly from the BOI? Mr. Lewis answered that requirement is statutory, you have to go through an approved lender. They don't have that flexibility. REP. BENEDICT said then basically this bill doesn't work? Mr. Lewis answered it may have limited applicability. He is not willing to say that there aren't any nonprofits qualified to apply.

REP. WALLIN asked if your competitor, the SBA, would require higher interest rates or would their rates be identical where you have to go through a bank; are they identical or is there a difference? Mr. Lewis said one advantage in the BOI rates is in SB 26 there are rules worked out whereby they suggest the language be adopted in statutes in SB 26, where they give a .5 basis point interest rate break for each job created up to a maximum of 250 basis points or 2.5% off the loan rate. They work a lot with SBA, they buy a lot of SBA guaranteed and partially guaranteed loans. Right now the BOI base rate on loans is somewhere in the ten range; and so if you were getting a loan that added 50 new jobs, they would be able to reduce the cost of that money to 7.5% on a fixed rate loan. That is pretty attractive.

REP. STEPLER said the fiscal note says it should be specified whether governmental entities are eligible for loans. If this bill were passed so the nursing homes, some of the nonprofit hospitals that are financed by local governments, whether by county or city, would they be eligible for any of this? Mr. Lewis said that was his suggestion when they drafted the fiscal note. That should be addressed because right now even with this the rules they have chosen would say no to governmental entities. The statutes do not allow that. They still are restricted from making loans to governmental entities. If the Legislature decides they want to open that door, they should make that specific in the legislation. He was not sure what the impact would be. They have inquiries every now and then from governments who would like to borrow or use this to borrow to build a building for a new business, or something like that. They have said No, they don't make loans to governmental entities. Again, it is a policy issue that can be considered and included if so desired. This is an appropriate place to put it in the statute.

REP. RICE is concerned this may not help Horizon Lodge because of the bank points that are currently in the statutes. What are your thoughts and what might be done on this? REP. HAYNE said she didn't know what could be done. She feels the BOI does a very good job in scrutinizing all the applications they get. If the nonprofit organization is a viable place to put the loan, they will do so.

REP. BENEDICT said something would have to be done statutorily in order to let the BOI make direct loans to nonprofit residential establishments because they are statutorily required right now to go through a bank. We would have to do something with this bill, if we want to, to allow them the flexibility to make direct loans. REP. HAYNE said they have her permission to do that.

Closing by Sponsor:

REP. HAYNE feels the hearing has been very fair. The word 'nonprofit' is the key to the bill. She hoped the Committee would look favorably on HB 479 and give it a Do Pass.

HEARING ON HOUSE BILL 442

Presentation and Opening Statement by Sponsor:

REP. TOM NELSON, HD 95, Billings, explained HB 442 defines a 'personal solicitation' sale on Page 2, line 9. It is an Act excepting from the definition of 'personal solicitation' an attempted sale in which the seller has an existing business relationship with the buyer; and amending Section 30-14-502, MCA. It means the purchase, lease, or rental of any goods or services following a personal solicitation where it would be one on one, face to face, and it could also be over the telephone, by the seller or person acting for the seller (which would be a salesman

Amendments to House Bill No. 479
First Reading Copy

Requested by Representative Hayne
For the Committee on Business and Economic Development

Prepared by Bart Campbell
February 6, 1991

1. Page 3, lines 5 and 6.

Following: "assistance"

Strike: "if" on line 5 through "criteria:" on line 6

Insert: ". The rules should recognize that different criteria
may be needed for nonprofit corporations than for for-profit
corporations."

2. Page 3, lines 7 through 16.

Following: line 6

Strike: subsections (a) through (d) in their entirety

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Business & Econ Dev. COMMITTEE BILL NO. HB 479
DATE Feb. 7/1991 SPONSOR(S) Rep. H. Hayne

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Robert E Mac Givra	Horizon Lodge (Conrad)	X	
KEITH E. TYNER	HORIZON LODGE (CONRAD)	X	
JACK HAYNE		X	
Stephen C. Stanley	Horizon Lodge Conrad	X	
Tony B. Kasper	Horizon Lodge Conrad	X	
Gene D. Todd	Eagles Homes Inc	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on February 12, 1991, at 8:00 A.M.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: HB 503, HB 378, HB 308 were heard today. Executive action on HB 479.

HEARING ON HOUSE BILL 503

Presentation and Opening Statement by Sponsor:

REP. FRITZ DAILY, HD 69, Butte, explained HB 503 is an Act to allow the play of sports tab games; to raise the price that may be charged for a sports pool chance; to raise the total amount that may be paid to winners of a sports pool; amending sections 23-5-501, 23-5-502, and 23-5-503, MCA; and providing an immediate effective date.

keno law, and they were about to have a whole bunch of keno machines. They never did envision that. They envisioned just a few machines, a few punchboards as trade stimulators. Their goal was never to have big time gambling. All they wanted were the things they did at home, like the whist tournament they had in Glasgow, etc. That is all they wanted. Just those things their people do at home. They are not trying to come in and run some fast action game on someone. He had this bill in in about 1975 and so when these other things started spiraling, look what happened. They were always trying to keep the neighborhood tavern small time and keep the people happy in this type of situation. If the Committee wanted to cut it down to a \$.50 amount to bet, or even \$.25, that would be alright. They would just like to have them as a trade stimulator. He would appreciate support.

He offered a video on Worldwide Press out of Great Falls that hires a lot of handicapped people who make the punchboards, etc.

EXECUTIVE ACTION ON HOUSE BILL 479

Motion: REP. SHEILA RICE moved HB 479 be brought off the Table.

Discussion: She had asked this bill to be Tabled for lack of enough information. Amendments have already been adopted.

REP. SONNY HANSON asked why this bill is being reconsidered. It was Tabled because of a conflict with SB 26, and the Committee wanted to wait until SB 26 could be heard. He was discussing the Section in SB 26 that deals with 17-6-308 MCA. EXHIBIT 19 is the basis of HB 479 which basically allows the Investment Board to invest in non-profit organizations, such as hospitals. They would have to follow through with the same regulations required for other eligible borrowers. That is what the amendments did to HB 479 before it was Tabled. The investment requirements for the Investment Board is that they will come up with 80% of the money, the other 20% has to be generated and is what the banking institution will have to hold in their portfolio. If a local banking operation is very interested in that particular expansion to the nursing home, the bank would look at it and see if they could participate in it for 20%, or maybe two or three banks could jointly participate on the basis of 20%. The 80% majority of that expansion would come from the Investment Board. He views this as an outlet to allow the Investment Board to participate in a non-profit expansion within the State, and also encourage the local banks to take a piece of the action. It has merit.

REP. LARSON spoke against the motion to take this from the Table because we have an economic development subcommittee in this group that is planning to try to develop a comprehensive plan for economic development in Montana. This bill probably should be part of the package that group considers because we are trying to get a big picture on how to handle investment monies in Montana.

REP. BACHINI saw a problem with that because of the transmittal

date. Some action has to be taken if the Committee sees fit to take it from the Table.

REP. RICE thought this bill should be acted on rather than delaying it by putting it in a subcommittee.

REP. KNOX reluctantly spoke against this motion. There is obviously limited funds to invest and those funds should indeed move to tax paying situations.

REP. RICE reminded one of the things Dave Lewis said is that there hasn't been a line around the capitol and that the instate investment fund is actually well below its ceiling for instate investments in profit making entities. Opening it up to non-profit entities in many cases can create jobs with instate investment dollars. That is what we want to do with those dollars.

REP. BACHINI said he had no problem taking it from the Table since they will have to meet the same criteria as the others.

Motion/Vote: Motion to take HB 479 from the Table was adopted 14-4 with REPS. KNOX, STEPLER, BARNETT AND STELLA JEAN HANSEN voting NO.

Motion/Vote: REP. RICE moved HB 479 DO PASS AS AMENDED.

Discussion: Paul Verdon explained the Committee members do not have copies of the amendment that was previously adopted. EXHIBIT 20. That amendment is the same as EXHIBIT 21.

REP. SONNY HANSON pointed out the data on Page 13 of EXHIBIT 19 they are changing that and authorizing investments in subsections (2 and (3) subject to the provisions of rules adopted by the Board. This is a federal requirement, and that is why it is being changed. As amended HB 479 will in effect become paragraph (4) underneath that Section.

REP. WALLIN asked when SB 26 would be heard. Will SB 26 be incorporated in HB 479? REP. BACHINI said it would not be heard until the next half. Mr. Verdon explained SB 26 is an entirely separate bill from this. If it is passed, it strikes two full subsections out of this Section because the Supreme Court about three years ago ruled it unconstitutional for the Board to guarantee bonds. They had to take out subsection (2), and they took out the last sentence of subsection (1). Those deletions were made to conform with the Supreme Court decision, but the rest of the Section stays intact. That just takes out the bonding guarantee, it doesn't affect anything about loans.

REP. RICE had really looked into this. She had talked to the Board of Investments, the sponsor, the sponsor of SB 26. This in her opinion is good bill, and it should be passed.

REP. WALLIN said he will vote for the bill, but as far as building nursing homes and hospitals, we already have in Montana health facilities that sell bonds at state rates and local hospitals and rest homes, etc. can borrow by going through bonding through the state. This isn't going to add on a lot of bonding guarantees. It would be more borderline than having to go through a bonding company because it would be more risky and wouldn't work for a nursing home.

REP. STELLA JEAN HANSEN asked who would it work for?

REP. WALLIN didn't know what those who couldn't qualify would do if they couldn't qualify for bonding and dump it on the state. So there would be more marginal credit, which is what is wrong with this.

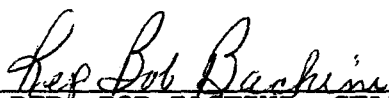
Mr. Verdon reminded the Board of Investments lends money under this Section, but this is an investment, it is not a grant. The Board of Investments is charged with making a profit on any investments they make. The nursing home had said if they have to pay going interest rates, they can't afford that. The Board of Investment is authorized to make these loans, but they also have to earn money.

REP. SONNY HANSON saw it as a means for the local community financial institutions to participate with the development of a hospital, etc. It is an additional tool.

Vote: Motion HB 479 DO PASS AS AMENDED was unanimously adopted.

ADJOURNMENT

Adjournment: 11:15 A.M.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE Feb. 12, 1991

[illegible]

HOUSE STANDING COMMITTEE REPORT

February 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 479 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Page 3, lines 5 through 16.

Following: "assistance" on line 5

Strike: remainder of line 5 through "investment" on line 16

Insert: ". The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations"

Section 7. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsection--(4) subsections (2) and (3) and subject to the provisions of 17-6-201, the Montana in-state investment permanent coal tax trust fund must be invested as authorized by rules adopted by the board. For--purposes--of this-section, "investment"-includes-the-guaranty-of-loans-or bonds--in--consideration--for--a--fee, in-lieu-of-the-actual acquisition-of-such-loans-or-bonds.

(2)--The-board-may-use-the-in-state-investment--fund--to guarantee--loans--or--bonds--issued--under-the-provisions-of 17-5-1501-through-17-5-1529, Title-17, chapter-5, part--16, or--Title--90,--chapter--7,--Each--guaranty-must-be-given-in consideration-of-a-fee. The-fees-must-be-paid-to-the--board. The--guaranty-must-provide-directly-or-by-separate-agreement that-the-board-is-fully-subrogated--to--the--rights--of--the obligee--under--the--loan--or--bond. The-board-shall-by-rule establish-the-maximum-ratio-between-guaranty-funds-available and-loans-or-bonds-to-be-guaranteed. The-board-may--covenant in--bond--issues-to-maintain-such-ratio. Unless-bonds-issued to-finance-a-project-are-secured-by-a-common-capital-reserve account-and-a-common-guaranty-fund, the--maximum--amount--of the--guaranty--authorized--by--this--section--may-not-exceed \$3,000,000-with-respect-to-the-bonds-or-loans-to-finance-the project.

(3)(2) The board may make loans from the in-state investment permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 and--the guaranty-fund-created-pursuant--to--17-5-1520 to establish balances or restore deficiencies therein in the account. The board may agree in connection with the issuance of bonds or notes secured by such the account or fund to make such the loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes.

(4)(3) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer \$7.5 million of the in-state--investment permanent coal tax trust fund for seed capital project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994. Until such time as the Montana board of science and technology development makes a loan pursuant to those provisions, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201."

Section 8. Section 17-6-310, MCA, is amended to read:

"17-6-310. No direct loans. (1) The state may not use

Amendments to House Bill No. 479
First Reading Copy

Requested by Representative Hayne
For the Committee on Business and Economic Development

Prepared by Bart Campbell
February 6, 1991

1. Page 3, lines 5 and 6.

Following: "assistance"

Strike: "if" on line 5 through "criteria:" on line 6

Insert: ". The rules should recognize that different criteria
may be needed for nonprofit corporations than for for-profit
corporations."

2. Page 3, lines 7 through 16.

Following: line 6

Strike: subsections (a) through (d) in their entirety

Amendments to House Bill No. 479
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 7, 1991

1. Page 3, lines 5 through 16.

Following: "assistance" on line 5

Strike: remainder of line 5 through "investment" on line 16

Insert: ". The rules must recognize that different criteria may
be needed for nonprofit corporations than for for-profit
corporations"

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Business & Econ Dev.

COMMITTEE

BILL NO. HB 503

DATE Feb. 12, 1991 **SPONSOR(S)** Rep. Fritz Daily

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
HARLEY WATKINS	MONTANA ASSOC. OF CHURCHES		X
Rae Lee Dillbeck	Business Women	X	
WARRY ALEY	GAMING INDUSTRY ASSOC	X	
Chuck Anderson	Kalispell	X	
TERRY BELISLE	Billings	X	
Rich Ellis	Billings	X	
LOIS MENZIES	GAMBLING CONTROL DIV. DEPT. OF JUSTICE		X
DANIEL A KRECK	MTA	X	
Mark [Signature]	"	X	
Chester A. Binkley	Basen	X	
Leah Grinn	And Salar	X	
Sue Rolwing	DGWF		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE BILL NO. 479

INTRODUCED BY HAYNE, GAGE, R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE BOARD OF INVESTMENTS TO ALLOW CERTAIN NONPROFIT CORPORATIONS TO QUALIFY FOR IN-STATE INVESTMENTS OF STATE FUNDS; AND AMENDING SECTION 17-6-308, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsection (4), the Montana in-state investment fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee, in lieu of the actual acquisition of such loans or bonds.

(2) The board may use the in-state investment fund to guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16, or Title 90, chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule establish the maximum ratio between guaranty funds available

and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain such ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed \$3,000,000 with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein. The board may agree in connection with the issuance of bonds or notes secured by such account or fund to make such loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer \$7.5 million of the in-state investment fund for seed capital project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994. Until such time as the Montana board of science and technology development makes a loan pursuant

THIRD READING

1 to those provisions, the funds under its administration must
2 be invested by the board of investments pursuant to the
3 provisions of 17-6-201.

4 (5) The board shall adopt rules to allow a nonprofit
5 corporation to apply for economic assistance ~~if--the~~
6 ~~nonprofit-corporation-meets-the-following-criteria:~~

7 ~~(a)--the--investment--would--result--in--the--nonprofit~~
8 ~~corporation---receiving--funds--for--the--expansion--of--its~~
9 ~~existing-operations;~~

10 ~~(b)--the-projected-expansion-would-create--at--least--15~~
11 ~~new-jobs-in-the-nonprofit-corporation;~~

12 ~~(c)--the--nonprofit--corporation--has-a-ratio-of-no-more~~
13 ~~than-50%-of-debt-to-assets;-and~~

14 ~~(d)--the-nonprofit-corporation-has-assets-with-a--value;~~
15 ~~minus--any--existing--encumbrances;-equal-to-at-least-three~~
16 ~~times-the-amount-of-the-investment. THE RULES MUST RECOGNIZE~~
17 ~~THAT DIFFERENT CRITERIA MAY BE NEEDED FOR NONPROFIT~~
18 ~~CORPORATIONS THAN FOR FOR-PROFIT CORPORATIONS."~~

-End-

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By Chairman J.D. Lynch, on March 8, 1991, at
10:00 a.m.

ROLL CALL

Members Present:

J.D. Lynch, Chairman (D)
John Jr. Kennedy, Vice Chairman (D)
Betty Bruski (D)
Eve Franklin (D)
Delwyn Gage (R)
Thomas Hager (R)
Jerry Noble (R)
Gene Thayer (R)
Bob Williams (D)

Members Excused: None

Staff Present: Bart Campbell (Legislative Council).

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON HOUSE BILL 76

Presentation and Opening Statement by Sponsor:

Representative Bud Gould, sponsor of the bill, stated that this bill is a very fair and equitable bill. The house business committee put the bill into a subcommittee, and there were a lot of changes that were made by this subcommittee and adopted by the full committee. The changes made should satisfy both sides. This bill takes in having two distributors in an area, and how they will be fairly treated. It is fair to the wineries, it should make them feel that they have people in the state of Montana that want to do business with them, and want to stay in business with them.

Proponents' Testimony:

Representative Bob Pavlovich stated that he worked on the subcommittee on this bill in the house. This bill has been floating back and forth since 1981. This year we have come up

back on. She stated that amendment six should be stricken.

Senator Williams stated in Mona Jamieson's testimony, he understands that she feels that there is a need for a bill like this, but it needs to be tuned up a little bit.

Mona Jamieson replied no. Let the free market work, let the people contract. We should fine tune this bill to Montana.

Senator Lynch asked about page four of the bill, on the mention of the fair market price. You shouldn't measure doing away with a wine distributorship based on the price of the whole business, because eighty percent of the business is probably the beer business.

Roger Tippy replied that the business that they are talking about is the business in that particular brand.

Senator Lynch asked that Roger Tippy clarify this, and stated that he wasn't going to appoint a formal subcommittee, but would like anyone interested to meet with him at three o'clock on Monday.

Closing by Sponsor:

Representative Gould closed by saying that this bill is walking and not running. This bill was patterned after a Washington law. The bill two years ago was running, it was patterned after the Michigan legislation. This bill is about an important matter that the committee should keep in mind.

HEARING ON HOUSE BILL 479

Presentation and Opening Statement by Sponsor:

Representative Harriet Hayne stated that HB 479 would enable the board of investments to allow certain non profit corporations to qualify for in state investments of the state's funds. At present, they are not allowed to do so. This bill would not require the board of investments to make buildings, and expansion loans to non profit organizations. It would require them to consider those good and reliable loan requests from those sources who have proved to have a good and dependable record in repaying loans in past business operations.

Proponents' Testimony:

Dave Lewis, executive director of the Montana board of investments, stated that the board has never done loans based on profits. When the coal tax loan program started, there was a concern there was going to be so much of a demand for the loans, that they should be restricted to non profit organizations. Over the last ten years that they have been running the program, they found that they do have enough money. They would adopt rules that would require any loans would have to have new jobs attached to them. They would have to meet the same criteria as the other loans that they do.

Robert MacGilvra, a member of the board of director's for the horizon lodge, stated that horizon lodge presently serves one

hundred and twenty four residents. It has an audited waiting list of one hundred and two people. Three years ago, horizon lodge instituted a program to provide personal care for a limited number of its residents. This service has strengthened their waiting list. This has been determined both by audit and preliminary feasibility studies to determine the wisdom in enlarging their facility. The problem that horizon lodge, and other retirement facilities face is in the five borrowers eligibility requirements. Horizon lodge is a non profit organization. They need a looser term of non profit. Non profit is much too broad of a term. There are some non profit organizations which should be excluded. The exclusion criterium could be left to the wisdom of the board of investments, with the possible endorsements of local governments such as the county commissioner's office.

Steven Stanley, chief executive officer of horizon lodge, and vice president of the Montana association of homes for the aging, stated that the projects are limited in cash flow, and are not allowed to have reserve accounts of any value. The elderly population is the fastest growing population, particularly in Montana.

Bill Leary, representing the Montana banker's association, stated that they are in support of HB 479.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Thayer asked that Representative Hayne explain the rational for all of the stricken language.

Bart Campbell stated that he could answer the question of Senator Thayer. He stated that when he first was asked to draft the bill, in speaking with the board, they had talked about setting out some specific criteria with the board. He drafted it initially that way. After the bill went through the process, it became clear that it would be better if they made it less specific.

Closing by Sponsor:

Representative Hayne closed.

EXECUTIVE ACTION ON HOUSE BILL 479

Motion:

Senator Kennedy moved that HB 479 be concurred in.

Discussion:

None

Amendments, Discussion, and Votes:

None

Recommendation and Vote:

HB 479 passed unanimously. Senator Gage will carry the bill.

HEARING ON HOUSE BILL 816

Presentation and Opening Statement by Sponsor:

Representative Dan Harrington, sponsor of the bill, stated that in 1983 we passed a lemon law for the state of Montana which is a protection to the consumer against automobiles. It has forced the automobile industry to recognize the fact that we do have this law. From time to time, they have been able with cars that have been brought in to state that these cars are lemons, and the people are either given a new car, or their car is repaired to their satisfaction. When the law was passed in 1983, the senate removed RV vehicles. There has been some serious problems with the purchasing of these vehicles.

Proponents' Testimony:

Joseph Schrage, an RV owner, stated that last March they purchased a sixty eight thousand dollar motorhome. They have had nothing but problems. They checked the lemon law, and they informed them that it was only up to ten thousand pound vehicles. It leaves them out completely. They submitted a written letter to the winnebago industry (See Exhibit 4).

Violet Schrage, an RV owner, stated that not only do they have problems with the motor home itself, there has been three factory recalls on the brakes. They are literally afraid for their lives. They have no recourse without a lemon law with an RV.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Williams asked if winnebago make their own chassis. Joseph Schrage replied that they make several different ones.

Senator Williams asked if winnebago has a warranty on their chassis.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/8/91 Bill No. HB 479 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

Secretary

J.D. LYNCH

Chairman

Motion: BE CONCURRED IN.

VISITORS' REGISTER

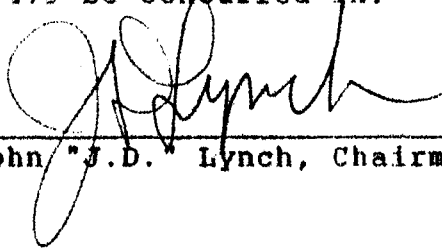
NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Joseph C. Schrage	R.V. Lemon Law	HB 816	✓	
Robert W. Schrage	Lemon Law	HB 816	✓	
and Mrs. Frank Renschel	R.V. Lemon Law	HB 816	✓	
EROME D. WINES	R.V. " "	HB 816		
Budd Gould	Sponsor	HB 76	✓	
Jack Haynie	Club	HB 76	✓	
Bill Warkent	Beer & Wine Business	HB 76	✓	
DAVE Hewitt	Beer & Wine Dist.	HB 76	✓	
Ed BRANDT	Beer & Wine Dist.	HB 76	✓	
Dale Markovich	Beer & Wine Dist.	HB 76	✓	
Karl Remba	MBWA	HB 76	✓	
Steve Seckler	Briggs & Stratton	HB 76	✓	
Brian C. Platt	Ben & Jerry's	HB 76	✓	
Robert Zucconi	Beer & Wine Dist.	HB 76	✓	
Anna Kaon	Dog Rescue	HB 76	—	—
ENE PHILLIPS	MT. LAND TITLE ASSOC	HB 779	X	
Mona Jansson	WINE INSTITUTE	HB 76		X
Sydney Abrams	Wine Institute - Calif, Oregon & Wash.	HB 76		✓
Don Bracopp	Intermountain Dist.	HB 76	X	
Robert MacCormack	Horizon Lodge	HB 479	X	
Dave Lewis	Board of Investment	HB 479	X	
Steve Stanley	C.E.D. Horizon Lodge	HB 479	X	
Bob Pyfer	MT Credit Unions League	779	X	

SENATE STANDING COMMITTEE REPORT

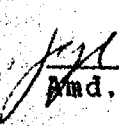
Page 1 of 1
March 8, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 479 (third reading copy -- blue), respectfully report that House Bill No. 479 be concurred in.

Signed: 

John "J.D." Lynch, Chairman

 3-8-91
Mnd. Coord.

SB 3/8 1:25
Sec. of Senate

5011578C.Sj1

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 13, 1991 11:44 am

Mr. Chairman: I move to amend House Bill No. 479 (third reading copy -- blue) as follows:

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

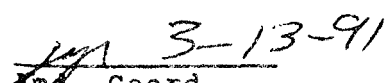
3. Page 3, following line 18.
Insert: "NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval"

ADOPT

REJECT

Signed: _____


Senator Gage


Amd. Coord.


Sec. of Senate

SENATE
HB 479

HOUSE BILL NO. 479

INTRODUCED BY HAYNE, GAGE, R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE BOARD OF INVESTMENTS TO ALLOW CERTAIN NONPROFIT CORPORATIONS TO QUALIFY FOR IN-STATE INVESTMENTS OF STATE FUNDS; AND AMENDING SECTION 17-6-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsection (4), the Montana in-state investment fund must be invested as authorized by rules adopted by the board. For purposes of this section, "investment" includes the guaranty of loans or bonds in consideration for a fee, in lieu of the actual acquisition of such loans or bonds.

(2) The board may use the in-state investment fund to guarantee loans or bonds issued under the provisions of 17-5-1501 through 17-5-1529, Title 17, chapter 5, part 16, or Title 90, chapter 7. Each guaranty must be given in consideration of a fee. The fees must be paid to the board. The guaranty must provide directly or by separate agreement that the board is fully subrogated to the rights of the obligee under the loan or bond. The board shall by rule

establish the maximum ratio between guaranty funds available and loans or bonds to be guaranteed. The board may covenant in bond issues to maintain such ratio. Unless bonds issued to finance a project are secured by a common capital reserve account and a common guaranty fund, the maximum amount of the guaranty authorized by this section may not exceed \$3,000,000 with respect to the bonds or loans to finance the project.

(3) The board may make loans from the in-state investment fund to the capital reserve account created pursuant to 17-5-1515 and the guaranty fund created pursuant to 17-5-1520 to establish balances or restore deficiencies therein. The board may agree in connection with the issuance of bonds or notes secured by such account or fund to make such loans. Loans must be on such terms and conditions as the board determines and must be repaid from revenues of the board realized from the exercise of its powers under 17-5-1501 through 17-5-1529, subject to the prior pledge of the revenues to the bonds and notes.

(4) The board shall allow the Montana board of science and technology development provided for in 2-15-1818 to administer \$7.5 million of the in-state investment fund for seed capital project loans pursuant only to the provisions of Title 90, chapter 3. This authority does not extend beyond June 30, 1994. Until such time as the Montana board

of science and technology development makes a loan pursuant to those provisions, the funds under its administration must be invested by the board of investments pursuant to the provisions of 17-6-201.

(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance ~~if--the nonprofit corporation meets the following criteria:~~

~~(a)--the--investment--would--result--in--the--nonprofit corporation--receiving--funds--for--the--expansion--of--its existing operations;~~

~~(b)--the--projected--expansion--would--create--at--least--15 new jobs in the nonprofit corporation;~~

~~(c)--the--nonprofit--corporation--has--a--ratio--of--no--more than 50% of debt to assets; and~~

~~(d)--the--nonprofit--corporation--has--assets--with--a--value, minus any existing encumbrances, equal to at least three times the amount of the investment.~~ THE RULES MUST RECOGNIZE THAT DIFFERENT CRITERIA MAY BE NEEDED FOR NONPROFIT CORPORATIONS THAN FOR FOR-PROFIT CORPORATIONS."

NEW SECTION. **SECTION 2.** EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

-End-